

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT NASHVILLE

**JOHNNY L. MCGOWAN, JR. v. STATE OF TENNESSEE**

**Appeal from the Circuit Court for Rutherford County**  
**No. F-27110     Don R. Ash, Judge**

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**No. M2007-02575-CCA-R3-CO - Filed April 16, 2008**

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The Petitioner, Johnny L. McGowan, Jr., appeals from the trial court's dismissal of his petition for error coram nobis relief. The State has filed a motion requesting that this Court affirm the trial court's denial of relief pursuant to Rule 20, Rules of the Court of Criminal Appeals. We grant the State's motion and affirm the judgment of the trial court.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed Pursuant to Rule 20, Rules of the Court of Criminal Appeals**

DAVID H. WELLES, J., delivered the opinion of the court, in which ROBERT W. WEDEMEYER and THOMAS T. WOODALL, JJ., joined.

Johnny L. McGowan, Jr., Pro Se.

Robert E. Cooper, Jr., Attorney General and Reporter; Deshea Dulany, Assistant Attorney General; and William C. Whitesell, Jr., District Attorney General, for the appellee, State of Tennessee.

**MEMORANDUM OPINION**

The Petitioner, Johnny L. McGowan, Jr., asserts that pursuant to a plea agreement, he pleaded guilty to and was convicted of three counts of aggravated assault on April 7, 1993. He asserts that pursuant to his plea agreement he received three concurrent terms of five years to be served at thirty percent. Copies of the judgments of conviction are not in the record. On September 21, 2007, the Petitioner filed his petition for a writ of error coram nobis alleging that he was entitled to relief because he had evidence that perjured testimony was presented to the grand jury which returned the indictments against him upon which his convictions were entered. The trial court summarily dismissed the petition, finding both that it did not assert cognizable grounds for error coram nobis relief and that the petition was barred by the one-year statute of limitations. It is from the order dismissing his petition that the Petitioner appeals.

A petition for writ of error coram nobis relief must be filed within one year of the time judgment becomes final in the trial court. See Tenn. Code Ann. § 27-7-103. It is obvious that the Petitioner's petition was filed several years after the statute of limitations had run. Nothing in the record suggests that the Petitioner's claim for relief implicates any due process concerns that would require a remand to the trial court for a hearing on the merits. See Workman v. State, 41 S.W.3d 100 (Tenn. 2001). In addition, we agree with the trial court's conclusion that the allegations contained in the petition, even if true, do not qualify as "newly discovered evidence" for purposes of our error coram nobis proceedings. We conclude that the trial court did not err by summarily dismissing the Petitioner's petition.

We therefore grant the State's motion and affirm the judgment of the trial court pursuant to Tennessee Court of Criminal Appeals Rule 20.

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DAVID H. WELLES, JUDGE